

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Madeleine Ayer	Team: Squad #13	CCRB Case #: 201904964	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/07/2019 10:45 PM	Location of Incident: 1882 Crotona Avenue	Precinct: 48	18 Mo. SOL 12/7/2020	EO SOL 7/24/2021	
Date/Time CV Reported Fri, 06/07/2019 11:46 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/07/2019 11:46 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Tatiana Latorre	25614	950729	048 PCT
2. POM Robert Wichers	16306	958169	048 PCT
3. SGT Bryan Ortiz	03482	945272	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Arini	08535	963379	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Bryan Ortiz	Discourtesy: Sergeant Bryan Ortiz spoke discourteously to § 87(2)(b)	
B.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz refused to provide his name to § 87(2)(b)	
C.POM Robert Wichers	Abuse: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b)	
D.POF Tatiana Latorre	Abuse: Police Officer Tatiana Latorre refused to provide her shield number to § 87(2)(b)	
E.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz frisked § 87(2)(b)	
F.POF Tatiana Latorre	Abuse: Police Officer Tatiana Latorre searched § 87(2)(b)'s bag.	
G.POF Tatiana Latorre	Abuse: Police Officer Tatiana Latorre frisked § 87(2)(b)	
H.POF Tatiana Latorre	Off. Language: Police Officer Tatiana Latorre made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
I.POF Tatiana Latorre	Abuse: Police Officer Tatiana Latorre refused to provide her name to § 87(2)(b)	
J.POF Tatiana Latorre	Abuse: Police Officer Tatiana Latorre refused to provide her shield number to § 87(2)(b)	
K.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
L.SGT Bryan Ortiz	Discourtesy: Sergeant Bryan Ortiz spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
M.POM Robert Wichers	Abuse: Police Officer Robert Wichers refused to provide his name to § 87(2)(b)	
N.POM Robert Wichers	Abuse: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b)	
O.POM Robert Wichers	Abuse: Police Officer Robert Wichers interfered with § 87(2)(b)'s use of a recording device.	
P.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz refused to provide his name to § 87(2)(b)	
Q.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz refused to provide his shield number to § 87(2)(b)	
R.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz interfered with § 87(2)(b)'s use of a recording device.	
S.SGT Bryan Ortiz	Abuse: Sergeant Bryan Ortiz threatened to arrest § 87(2)(b)	
T.SGT Bryan Ortiz	Discourtesy: Sergeant Bryan Ortiz acted discourteously toward § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On June 7, 2019, § 87(2)(b) filed this complaint on the CCRB's website on behalf of herself and her boyfriend, § 87(2)(b).

On June 7, 2019, at approximately 10:45 p.m., Sergeant Bryan Ortiz, Police Officer Tatiana Latorre, and Police Officer Robert Wichers, all of the 48th Precinct, stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants in front of 1882 Crotona Avenue in the Bronx for reckless driving. Sgt. Ortiz spoke discourteously to § 87(2)(b) (**Allegation A – Discourtesy: Word**, § 87(2)(g)). Sgt. Ortiz, PO Wichers, and PO Latorre refused to provide their shield numbers to § 87(2)(b) (**Allegations B-C – Abuse of Authority: Refusals to Provide Shield Number**, § 87(2)(g)). **Allegation D – Abuse of Authority: Refusal to Provide Shield Number**, § 87(2)(g). Sgt. Ortiz frisked § 87(2)(b) (**Allegation E – Abuse of Authority: Frisk**, § 87(2)(g)). PO Latorre searched § 87(2)(b)'s bag, frisked her, and made remarks to her based on her gender (**Allegation F – Abuse of Authority: Search**, § 87(2)(g)). **Allegation G – Abuse of Authority: Frisk**, § 87(2)(g). **Allegation H – Offensive Language: Gender**, § 87(2)(g). PO Latorre refused to provide her name and shield number to § 87(2)(b) (**Allegations I-J – Abuse of Authority: Refusal to Provide Name and Shield Number**, § 87(2)(g)). Sgt. Ortiz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegation K – Abuse of Authority: Vehicle Search**, § 87(2)(g)) and spoke discourteously to § 87(2)(b) for a second time (**Allegation L – Discourtesy: Word**, § 87(2)(g)). PO Wichers refused to provide his name and shield number to § 87(2)(b) and interfered with her use of a recording device (**Allegations M-N – Abuse of Authority: Refusal to Provide Name and Shield Number**, § 87(2)(g)). **Allegation O – Abuse of Authority: Interference with Recording**, § 87(2)(g). Sgt. Ortiz refused to provide his name and shield number to § 87(2)(b) interfered with her use of a recording device, threatened to arrest her, and acted discourteously toward her (**Allegations P-Q – Abuse of Authority: Refusal to Provide Name and Shield Number**, § 87(2)(g)). **Allegation R – Abuse of Authority: Interference with Recording**, § 87(2)(g). **Allegation S – Abuse of Authority: Threat of Arrest**, § 87(2)(g). **Allegation T – Discourtesy: Action**, § 87(2)(g), § 87(4-b), § 87(2)(g).

§ 87(2)(b) received a summons for § 87(2)(b) as a result of this incident. [§ 87(2)(b)] [§§ 86(1)(2)&(4)] [§ 87(2)(g)]

PO Latorre's, Sgt. Ortiz's, and PO Wichers' BWC cameras captured this incident. The BWC footage is attached to IAs #42-44 (**Board Reviews 01-03**) and summarized in IA #65, IA #77, and IA #78 (**Board Reviews 04-06**). Surveillance cameras from Abraham Plaza Apartments, located at 1870 Crotona Avenue, also captured this incident. This footage is attached to IA #67 (**Board Review 07**) and summarized in IA #81 (**Board Review 08**).

Findings and Recommendations

Allegation A) – Discourtesy: Sergeant Bryan Ortiz spoke discourteously to § 87(2)(b).

Allegation (B) – Abuse of Authority: Sergeant Bryan Ortiz refused to provide his shield number to § 87(2)(b).

Allegation (C) – Abuse of Authority: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b).

Allegation (D) – Abuse of Authority: Police Officer Tatiana Latorre refused to provide her shield number to § 87(2)(b).

§ 87(2)(b) said he was driving his car on Crotona Avenue with § 87(2)(b) when his car was

pulled over by Sgt. Ortiz, PO Latorre, and PO Wichers (**Board Review 09**). Immediately prior, § 87(2)(b) said he drove past two cars in front of him at a traffic light that had just turned green. The officers were in one of those cars. Sgt. Ortiz approached § 87(2)(b)'s window and said, "What the fuck are you doing? Do you know what the fuck you're doing here?" § 87(2)(b) asked why he was being pulled over. Sgt. Ortiz said he did not need a reason and ordered § 87(2)(b) to produce his license and registration. As § 87(2)(b) was retrieving his documents, he again asked why he had been pulled over. Sgt. Ortiz replied, "You know what? Get the fuck out of the car." § 87(2)(b) asked why. Sgt. Ortiz said, "Get out." § 87(2)(b) complied and was escorted to the rear of his car. There, Sgt. Ortiz stood very close to him, and said, "You're fucking hardheaded. Stop being stupid and respect us. Do you know who you're fucking with?" § 87(2)(b) said no. Sgt. Ortiz said, "I'm a fucking sergeant." § 87(2)(b) said, "I want your badge numbers. All of you." Sgt. Ortiz told § 87(2)(b) he would get the requested information at the end of the incident, but none of the officers ever provided § 87(2)(b) with the requested information.

§ 87(2)(b) said after the officers exited their car, PO Latorre said to § 87(2)(b) "Are you fucking stupid? You could have gotten a child killed" (**Board Review 10**). § 87(2)(b) responded, "What do you mean? If there were any danger, it would be because of you guys." Sgt. Ortiz approached the driver's side window and told § 87(2)(b) to get out of his car. Immediately after he said this, PO Latorre walked around to the sidewalk on the passenger side of § 87(2)(b)'s car and told § 87(2)(b) "I'm going to need you to get out." § 87(2)(b) complied. § 87(2)(b) made no mention of the additional alleged profane statements or whether § 87(2)(b) requested any officer provide him with their shield number, and she was uncooperative with attempts to obtain a follow-up statement regarding these aspects of the incident (see IAs for contact attempts).

Sgt. Ortiz said he, PO Wichers, and PO Latorre were driving in an unmarked police car and about to conduct a traffic stop when § 87(2)(b)'s car sped up behind the car the officers intended to stop (**Board Review 11, Board Review 12**). The officers drove behind § 87(2)(b)'s car and then pulled up parallel to his car. They activated their turret lights and sirens to indicate to § 87(2)(b) that he should slow down and allow the officers to pass him. § 87(2)(b) recklessly sped up, so the officers pulled him over. Sgt. Ortiz approached § 87(2)(b) and said the officers were almost seriously injured because § 87(2)(b) decided to race his car, which Sgt. Ortiz categorized as reckless driving. Sgt. Ortiz did not make any of the alleged discourteous statements. Sgt. Ortiz did not recall if § 87(2)(b) asked for his shield number, but he denied refusing to provide it to § 87(2)(b).

PO Wichers' and PO Latorre's statements were generally consistent with Sgt. Ortiz's statement. PO Wichers said Sgt. Ortiz did not use any profanity towards § 87(2)(b) while he was in PO Wichers' presence, and that no officer refused to provide his or her shield number to § 87(2)(b) in his presence (**Board Review 13**). PO Wichers said § 87(2)(b) asked him for his name and shield number at some point during the incident, and that he immediately provided the requested information to him verbally. PO Latorre said the only conversation she remembered having with § 87(2)(b) was asking him if § 87(2)(b) was his girlfriend. She did not recall refusing to provide her shield number to § 87(2)(b) (**Board Review 14**).

The BWC footage begins after the time these allegations are alleged to have taken place.

PO Latorre ultimately issued § 87(2)(b) § 87(2)(b) summons. The summons listed PO Latorre's rank, last name, tax registry number, and command (**Board Review 15**).

Members of service must clearly state their name and shield number, or otherwise provide them, to anyone who requests such information. NYPD Patrol Guide, Section 203-09 (**Board Review 16**).

§ 87(2)(g)

Allegation (E) – Abuse of Authority: Sergeant Bryan Ortiz frisked § 87(2)(b)

§ 87(2)(b) testified that at the rear of the car, Sgt. Ortiz ordered him to turn around. § 87(2)(b) asked why and Sgt. Ortiz said, “Turn around. I’m arresting you.” (Later in his CCRB interview, § 87(2)(b) said he was not sure if Sgt. Ortiz used the word “arrest.”) § 87(2)(b) asked why once more but ultimately complied. Sgt. Ortiz handcuffed him. § 87(2)(b) remained at the rear of his car. He did not allege that any officer frisked him.

§ 87(2)(b) § 87(2)(b)'s mother, provided a phone statement (**Board Review 17**). She said she received a call from § 87(2)(b) who said she and § 87(2)(b) had been pulled over and that the officers were going to arrest § 87(2)(b) even though he had done nothing wrong. § 87(2)(b) asked to speak with an officer, so § 87(2)(b) put her on the phone with Sgt. Ortiz. She asked Sgt. Ortiz what happened. Sgt. Ortiz said that § 87(2)(b) was being disrespectful. § 87(2)(b) said, "Yeah, he's § 87(2)(b). I get it." § 87(2)(b) asked Sgt. Ortiz why he was going to arrest her son. Sgt. Ortiz said he was not; he was going to issue him a summons for reckless driving.

Sgt. Ortiz testified that at this point in the encounter, he intended to arrest § 87(2)(b) for reckless driving and reckless endangerment. In order to make sure § 87(2)(b) did not have any weapons on him prior to transporting him to the stationhouse, Sgt. Ortiz had him exit his car and frisked him for safety purposes. Sgt. Ortiz additionally thought § 87(2)(b) could be armed, because he had been driving recklessly, because § 87(2)(b) interrupted the conversation Sgt. Ortiz was having with § 87(2)(b) and was disorderly and argumentative, and because the incident location was shooting-prone. He did not immediately handcuff § 87(2)(b) because § 87(2)(b) did not pose an immediate threat to the officers. Later in the encounter, Sgt. Ortiz spoke with § 87(2)(b) on the phone and learned that § 87(2)(b) was having difficulties at home. After learning this information, Sgt. Ortiz used his discretion and decided to issue § 87(2)(b) a summons instead of arresting him.

PO Latorre said Sgt. Ortiz spoke to § 87(2)(b)'s mother, who explained to him that her son had been dealing with domestic violence issues at home. Sgt. Ortiz then decided to give § 87(2)(b) a break by issuing him a summons rather than arresting him.

PO Wichers said he did not remember if Sgt. Ortiz or PO Latorre suggested to him that they were going to arrest § 87(2)(b). He did not remember why the officers collectively decided not to arrest § 87(2)(b).

The BWC footage begins after the time this allegation is alleged to have taken place and ends as Sgt.

Ortiz begins speaking with § 87(2)(b) In the surveillance footage from Abraham Plaza Apartments, at the 00:53 minute mark of the media player timestamp, visible at the bottom of the screen, the surveillance footage captures Sgt. Ortiz frisking § 87(2)(b) At 03:50, Sgt. Ortiz handcuffs § 87(2)(b) (Board Review 07).

An officer must frisk a person under arrest to find weapons, evidence, or contraband. The frisk should be conducted before or immediately after the subject is rear handcuffed, depending upon particular circumstances, temperament of the subject, and escape potential. NYPD Patrol Guide, Procedure 208-05 (Board Review 18). When the police have constitutional grounds to insist on detaining a citizen, there is the companion right to frisk a detainee in order to protect the officers against the presence of weapons. People v. De Bour, 40 N.Y.2d 210 (N.Y. 1976) (Board Review 19).

§ 87(2)(g)

Allegation (F) – Abuse of Authority: Police Officer Tatiana Latorre searched § 87(2)(b) s bag.

Allegation (G) – Abuse of Authority: Police Officer Tatiana Latorre frisked § 87(2)(b)
§ 87(2)(b) stated that PO Latorre ordered her out of the car as well. § 87(2)(b) complied. As soon as she got out of the car, PO Latorre searched her purse, a small red Supreme bag that she was carrying on her shoulder. PO Latorre unzipped and looked through it. She then turned § 87(2)(b) around to face the car, and told her to put her hands on the car. § 87(2)(b) was wearing pajamas with no pockets. PO Latorre patted her down. § 87(2)(b) told PO Latorre she was not allowed to search her, that she did not consent to being searched, and that she was § 87(2)(b) “in the process” of becoming an NYPD cadet.

§ 87(2)(b) stated that PO Latorre searched through § 87(2)(b) s bag without asking for or being granted consent. § 87(2)(b) said § 87(2)(b) s bag was inside his car on the floor near the front passenger seat and that PO Latorre reached into the opened passenger side door to get the bag, then put it back in its original location once she finished searching it. § 87(2)(b) did not see PO Latorre frisk § 87(2)(b)

The BWC footage begins after the time this allegation is alleged to have taken place.

The surveillance footage, at the 00:51 minute mark of the media player timestamp, visible at the bottom of the screen, captures § 87(2)(b) and PO Latorre both standing on the passenger side of the car facing each other. PO Latorre grabs something near the left side of § 87(2)(b) s torso, consistent with where a purse would be positioned if worn on one’s shoulder, though the angle and video quality do not enable the viewer to see the purse or what PO Latorre does next with it clearly. PO Latorre removes her flashlight from her utility belt, tilts her head down and points her flashlight down. Her arms are moving around near the purse. At 00:56, PO Latorre reaches for § 87(2)(b) s purse shoulder strap, but § 87(2)(b) turns her body, removes the purse herself, and seems to hands it to PO Latorre. The angle and quality of the video do not enable the viewer to see what exactly PO Latorre is doing with the purse, including if she unzips it, shuffles anything around, or removes any

objects. At 01:19, PO Latorre pats down § 87(2)(b)'s entire body. She does not reach into any pockets. PO Wichers stands behind PO Latorre as the search and frisk take place, apparently viewing the exchange. Sgt. Ortiz speaks with § 87(2)(b) at the rear of the car. It is unclear if Sgt. Ortiz observed the search or frisk.

PO Latorre stated that while Sgt. Ortiz talked to § 87(2)(b) PO Latorre spoke to § 87(2)(b) who was on the phone with 911 reporting this incident and requesting uniformed officers come to the scene. PO Latorre ordered § 87(2)(b) to produce her identification per car stop protocol, but § 87(2)(b) refused and said she was a police cadet. PO Latorre said she probably ordered § 87(2)(b) to step out of the car because § 87(2)(b) had been asked to step out, and because the officers wanted to make sure “there was no threat” and that § 87(2)(b) “didn’t have anything on her,” such as weapons. PO Latorre did not recall searching or frisking § 87(2)(b). Upon reviewing the surveillance footage during her CCRB interview, PO Latorre acknowledged frisking § 87(2)(b) all over her body, and said she could not tell from the footage if she searched § 87(2)(b)'s bag, but that if she did, it would have been a search for weapons.

Sgt. Ortiz testified that he observed § 87(2)(b) and § 87(2)(b) making “furtive movements” inside their car before they were pulled over. Specifically, they “bladed” their bodies in multiple directions and reached down to their waists. During the car stop, § 87(2)(b) interrupted the conversation Sgt. Ortiz was having with § 87(2)(b) was “disorderly,” and began saying things like she was a police cadet. Sgt. Ortiz also noted that the incident location was shooting-prone. Sgt. Ortiz believed PO Latorre frisked § 87(2)(b)'s waistband. He did not remember if § 87(2)(b) had a bag with her or if a bag was searched.

PO Wichers testified that neither § 87(2)(b) nor § 87(2)(b) were making any movements or doing anything suspicious when they were first pulled over. He did not remember if he ever developed any suspicion that either § 87(2)(b) or § 87(2)(b) were armed.

§ 87(2)(g)

Allegation (H) – Offensive Language: Police Officer Tatiana Latorre made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (I) – Abuse of Authority: Police Officer Tatiana Latorre refused to provide her name to § 87(2)(b)

Allegation (J) – Abuse of Authority: Police Officer Tatiana Latorre refused to provide her shield number to § 87(2)(b)

§ 87(2)(b) said that as PO Latorre patted her down, she asked PO Latorre, “Why are you searching me?” PO Latorre replied, “Because I can, bitch.” § 87(2)(b) asked PO Latorre for her name and shield number. PO Latorre ignored the request and never provided the requested information to § 87(2)(b).

§ 87(2)(b) said he heard PO Latorre tell Sgt. Ortiz that § 87(2)(b) was “acting like a bitch.” § 87(2)(b) said he and § 87(2)(b) asked all three officers for their shield numbers three or four times (see Allegations B-D for § 87(2)(b)'s allegations), and that the officers said they

would provide them but never did.

PO Latorre's BWC footage begins with her standing near the front passenger door of § 87(2)(b)'s car. At the 00:30 minute mark of the media player timestamp, visible at the bottom of the screen, § 87(2)(b) says, "I asked for it. I have the right to ask for it." PO Latorre says, "I said I'd give it to you. I don't understand why we're going back and forth." § 87(2)(b) says, "You didn't give it to me." PO Latorre says, "I did. I was going to." At 00:42, PO Latorre says, "You want to be nasty, be nasty. However, I'm not done talking to you." § 87(2)(b) says, "You called me a bitch. You're not supposed to do that." PO Latorre says, "Alright, do you want to talk or not?" § 87(2)(b) speaks into her phone. At 00:57, PO Latorre says, "You should know better. You're a cadet." § 87(2)(b) says, "I know, and I do know better." At 02:47, PO Latorre asks § 87(2)(b) "Are you done?" § 87(2)(b) says, "Yeah. Can I have your name and badge number now?" PO Latorre says, "I will, but after we have a conversation." § 87(2)(b) says, "I don't need to have a conversation." PO Latorre says, "I'm going to give you a conversation and then I'll give you my badge number. I have it right here. I'll show it to you." § 87(2)(b) asks, "So why are you hiding it?" PO Latorre says, "I don't need to hide it." There is the sound of metal clinking off screen. § 87(2)(b) says, "You are hiding it, though." PO Latorre says the incident is being recorded. At 03:10, § 87(2)(b) asks PO Latorre, "Why did you have to call me a bitch?" PO Latorre says, "We're going to go there, but let me explain something to you." § 87(2)(b) says, "Just answer my question." PO Latorre says, "No, that's not how it works. But let me explain something to you." § 87(2)(b) speaks into her phone, "Hello? So, I don't know...this lady is trying to explain something to me." PO Latorre walks away **(Board Review 01)**.

PO Latorre could not recall if § 87(2)(b) asked for her name or shield number, nor could she recall if she provided her name or shield number to § 87(2)(b). PO Latorre was wearing her shield on a lanyard around her neck, and it was clearly visible. PO Latorre did not recall calling § 87(2)(b) a bitch. During her CCRB interview, upon reviewing her BWC footage from 00:29 to 00:43, which captures § 87(2)(b) saying, "You didn't give it to me," PO Latorre said she assumed § 87(2)(b) was referring to PO Latorre's name and shield number. PO Latorre then said she believed, but was not certain, that she provided her name and shield number to § 87(2)(b). PO Latorre denied that she hid her shield. She said the clinking sound in the video is the sound of her displaying her shield to § 87(2)(b). Upon reviewing her BWC footage from 03:07 to 03:26, which captures § 87(2)(b) asking PO Latorre why she called her a bitch and PO Latorre responding, "We're going to go there," PO Latorre was asked what she meant by this statement. PO Latorre answered, "I don't remember calling her a bitch."

Sgt. Ortiz stated that he did not hear any profane language from any officers at the scene. PO Wichers stated that he did not remember if PO Latorre called § 87(2)(b) a bitch. PO Wichers did not remember if § 87(2)(b) asked PO Latorre for her name or shield number. He did not observe any officer refuse to provide his or her name or shield number to § 87(2)(b).

§ 87(2)(g)

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§ 87(2)(g)

Allegation (K) – Abuse of Authority: Sergeant Bryan Ortiz searched the vehicle in which

§ 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) both alleged that Sgt. Ortiz searched § 87(2)(b)'s car. § 87(2)(b) testified that Sgt. Ortiz handcuffed him, then searched the entirety of his car, excluding the trunk. § 87(2)(b) asked Sgt. Ortiz why he was searching his car and Sgt. Ortiz said he did not need a reason to pull § 87(2)(b) over and search his car. § 87(2)(b) said he had his wallet, which contained his driver's license, in one of his pockets when he was ordered out of the car. § 87(2)(b) said Sgt. Ortiz put his entire head inside the driver's side of the car and looked around. § 87(2)(b) did not see if he opened the glove compartment, or exactly where inside the car he looked. He did not look in the trunk. § 87(2)(b) asked him, "Why are you searching the car?" Sgt. Ortiz responded, "Because I can." § 87(2)(b) said, "No you can't. We didn't give you consent to search anything." After the search, § 87(2)(b) was handcuffed, but § 87(2)(b) did not see who handcuffed him.

In the surveillance footage, beginning at the 01:27 minute mark of the media player timestamp, visible at the bottom of the screen, § 87(2)(b) standing at the rear of the car, is holding a small black object in his left hand, though the video does not clearly show what the object is. At 01:29, Sgt. Ortiz walks to the driver's side of § 87(2)(b)'s car and § 87(2)(b) extends his right arm outwards and behind him as Sgt. Ortiz walks past him and over to the driver-side area of § 87(2)(b)'s car. At 01:48, a light from a flashlight appears in the car. At 02:08, Sgt. Ortiz returns to the back of the car and begins speaking with § 87(2)(b). At 03:50, he handcuffs § 87(2)(b).

None of the BWC footage captures Sgt. Ortiz searching the car at the time § 87(2)(b) alleges he did and at the time the surveillance footage captures him shining a flashlight inside of the car. BWC footage of later parts of this incident capture § 87(2)(b) telling Sgt. Ortiz that his car registration and insurance card are located near the sun visor on the driver's side of the car (see PO Latorre's BWC video, starting at 03:37). In Sgt. Ortiz's BWC footage, starting at 00:38, Sgt. Ortiz instructs § 87(2)(b) who is seated inside of § 87(2)(b)'s car, to provide him with the registration and insurance information (**Board Review 02**). In PO Wichers' BWC footage, beginning at 00:10, Sgt. Ortiz can be seen holding § 87(2)(b)'s registration and insurance (**Board Review 03**). This later BWC footage does not capture Sgt. Ortiz actually entering or searching the car.

Sgt. Ortiz initially said he shined his flashlight into the car and looked into its interior from the outside to check for people and weapons. He did not search the car in any other way. He also said that while § 87(2)(b) was standing outside his car, Sgt. Ortiz asked for his driver's license, which § 87(2)(b) said was inside the car. § 87(2)(b) was ordered to provide § 87(2)(b)'s license, registration, and insurance for the driver, which she did. After reviewing the above-referenced surveillance footage, Sgt. Ortiz said he entered the car to retrieve § 87(2)(b)'s credentials

and/or wallet. He did not remember if § 87(2)(b) told him where these were located. As he entered the car, Sgt. Ortiz shined his flashlight to make sure he did not encounter weapons in any place that was visible because it was dark outside. He did not observe anything in the car that raised his suspicion.

PO Latorre and PO Wichers did not see Sgt. Ortiz search the car.

During a traffic stop, an officer may enter a vehicle in order to retrieve the vehicle's registration and insurance information when a driver fails to do so and the driver directs the officer as to the whereabouts of this documentation. People v. Pryor, 26 Misc. 3d 997 (2009) (**Board Review 20**).

According to New York Vehicle Traffic Law, Sections 319(3), 401(4), and 507(2), the operator of a motor vehicle must provide his license, registration, and proof of insurance to a police officer upon request. The operator's failure to provide this documentation is presumptive evidence that he is driving without required documentation, an arrestable offense (**Board Review 21**).

§ 87(2)(g)

[REDACTED]

Allegation (L) – Discourtesy: Sergeant Bryan Ortiz spoke discourteously to § 87(2)(b).

§ 87(2)(b) stated that when Sgt. Ortiz handed him his summons, Sgt. Ortiz said, "Stop acting like a hardhead and grow the fuck up."

Sgt. Ortiz denied making the alleged discourteous statement and no officer interviewed acknowledged hearing him do so.

The BWC footage ends before this part of the incident.

§ 87(2)(g)

[REDACTED]

Allegation (M) – Abuse of Authority: Police Officer Robert Wichers refused to provide his name to § 87(2)(b)

Allegation (N) – Abuse of Authority: Police Officer Robert Wichers refused to provide his shield number to § 87(2)(b)

After PO Latorre refused to provide her name and shield number to § 87(2)(b) § 87(2)(b) asked PO Wichers, who was standing behind PO Latorre, for his name and shield number. He refused to provide the requested information too.

PO Wichers said that at some point during the encounter, § 87(2)(b) asked him for his name and shield number and he verbally provided his name and shield number to her.

No officer interviewed acknowledged hearing PO Wichers refuse to provide his name or shield number to § 87(2)(b)

None of the video evidence captured this aspect of the incident.

§ 87(2)(g)

Allegation (O) – Abuse of Authority: Police Officer Robert Wichers interfered with § 87(2)(b)'s use of a recording device.

After § 87(2)(b)'s car was searched, Sgt. Ortiz told § 87(2)(b) to wait in the car. § 87(2)(b) said she wanted to take a photo of the police car's license plate, but PO Wichers said, "No, you have to get in the car." § 87(2)(b) said, "So I can't go take a picture of the license plate?" PO Wichers replied, "Get in the car," so § 87(2)(b) sat down in the front passenger seat and took a photo of the license plate from inside the car.

PO Wichers did not recall if § 87(2)(b) tried to take photos of the police car's license plate with her phone, but he denied ever telling her that she could not take these photos.

None of the video evidence captured this aspect of the incident.

§ 87(2)(g)

Allegation (P) – Abuse of Authority: Sergeant Bryan Ortiz refused to provide his name to § 87(2)(b)

Allegation (Q) – Abuse of Authority: Sergeant Bryan Ortiz refused to provide his shield number to § 87(2)(b)

Allegation (R) – Abuse of Authority: Sergeant Bryan Ortiz interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) said she asked Sgt. Ortiz for his name and shield number, and that Sgt. Ortiz said, "I'm Sergeant Rodriguez" and recited his shield number very quickly. § 87(2)(b) said, "Okay, I didn't get any of that. Can you give it to me again or can I take a picture of your badge?" Sgt. Ortiz responded, "Nope, I already gave it to you."

Sgt. Ortiz testified that § 87(2)(b) asked him for his name and shield number and that he verbally provided the requested information to her. Sgt. Ortiz stated that § 87(2)(b) could have taken a photo of his shield if she wanted to. Sgt. Ortiz denied physically preventing her from doing so. He verbally told § 87(2)(b) that she could not take a photo of his shield solely because he was in the midst of an investigation and he was concerned about what she might be reaching for if she took out her phone.

In Sgt. Ortiz's BWC footage, at the 01:05 minute mark of the media player timestamp, visible at the bottom of the screen, § 87(2)(b) says, "I want your name and badge number." Sgt. Ortiz clearly says, "Sergeant Ortiz. That's what you're going to get." § 87(2)(b) asks, "Can I see it?" Sgt. Ortiz clearly says, "3482, you heard me? That's all you're getting." § 87(2)(b) says, "Let me take a picture of it." Sgt. Ortiz says, "No, you don't take a picture. 3482. I'm giving it to you. You're being recorded."

Individuals have a right to lawfully record police activity. Members of service cannot threaten, intimidate, or otherwise discourage an observer from recording the police officer's activities. The right to observe and record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual who is recording. NYPD Patrol Guide, Procedure 203-29 (**Board Review 22**).

§ 87(2)(g)

Allegation (S) – Abuse of Authority: Sergeant Bryan Ortiz threatened to arrest § 87(2)(b)

§ 87(2)(b) said that Sgt. Ortiz ordered her to produce her identification and NYPD tax registry number. (As previously discussed, earlier in the incident, § 87(2)(b) said she told the officers that she was in the process of becoming a cadet.) § 87(2)(b) said she did not have a tax number because she was not yet a cadet. Sgt. Ortiz said, "Oh, you're lying about being a cadet? You're impersonating an officer?" § 87(2)(b) replied, "I didn't say I was a cadet. I said I was in the process of becoming a cadet." Sgt. Ortiz told § 87(2)(b) "I can arrest you right now."

Sgt. Ortiz acknowledged telling § 87(2)(b) he could arrest her for false impersonation of a police officer. In his BWC footage, at the 02:22 minute mark of the media player timestamp, visible at the bottom of the screen, he asks § 87(2)(b) for her last name and her tax number, but she says no. Sgt. Ortiz tells her that she is "going to get into an off-duty incident" and "will hear from downtown about this." He asks for her tax number again and she says she does not have it. Sgt. Ortiz asks for her cadet ID, which she says she also does not have. § 87(2)(b) says, "I'm in the process of being a cadet." Sgt. Ortiz says, "So you lied to me, telling me you're a cadet?" § 87(2)(b) responds, "No, I said I'm in the process of being a cadet, I'm § 87(2)(b)." Sgt. Ortiz orders her to produce her ID. § 87(2)(b) asks if Sgt. Ortiz has a warrant. Sgt. Ortiz says, "I don't need a warrant. I'm going to tell you one more time, or I'm going to arrest you and bring you back to the precinct."

§ 87(2)(g)

§ 87(2)(g)

Allegation (T) – Discourtesy: Sergeant Bryan Ortiz acted discourteously towards § 87(2)(b)

§ 87(2)(b) testified that she handed Sgt. Ortiz her college ID earlier during the incident, and that when she asked for her ID back, Sgt. Ortiz tossed it at her “like a frisbee” so that it landed on her chest.

Sgt. Ortiz stated that he handed § 87(2)(b) her ID back and that she took it from him; he did not toss it and it did not land on her chest.

In the surveillance footage, at the 13:19 minute mark of the media player timestamp, visible at the bottom of the screen, Sgt. Ortiz hands § 87(2)(b) a small item consistent in shape and size with an identification card. She receives it in her hand. At no point is Sgt. Ortiz captured throwing or tossing anything at § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which either § 87(2)(b) or § 87(2)(b) have been a party (**Board Review 24**).
- Sgt. Ortiz has been a member of the NYPD for 12 years. He has been a subject in six

additional complaints, totaling 12 allegations, one of which was substantiated.

- Case 201500811 involved a substantiated threat of arrest allegation. The Board recommended formalized training, which the NYPD imposed.
- § 87(2)(g)
- PO Latorre has been a member of the NYPD for eight years. She has been a subject in one additional complaint, totaling one allegation, which was substantiated.
 - Case 201501953 involved a substantiated stop allegation. She was found guilty at APU trial. It was recommended she forfeit two days of vacation, which the NYPD imposed.
 - § 87(2)(g)
- PO Wichers has been a member of the NYPD for five years. He has been a subject in four additional complaints, totaling seven allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- As of March 5, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**Board Review 25**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 13

Investigator: Madeleine Ayer
Signature

Madeleine Ayer
Print Title & Name

5/19/2020
Date

Squad Leader: IM Laura Kastner
Signature

IM Laura Kastner
Print Title & Name

05/20/2020
Date